

DIVISION III

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
OLLY NEAL, Judge

CACR06-307

October 25, 2006

TERRY ALAN PARKER
APPELLANT

AN APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT
[CR2005-1061]

v.

STATE OF ARKANSAS

HONORABLE JOHN LANGSTON,
JUDGE

APPELLEE

AFFIRMED

Following a November 30, 2005, trial, a Pulaski County jury found that appellant Terry Parker committed the offense of rape as defined by Ark. Code Ann. § 5-14-103 (Supp. 2003). He was sentenced to fifteen years' imprisonment in the Arkansas Department of Correction. On appeal, appellant argues that the trial court erred when it denied his motion for directed verdict. We disagree; therefore, we affirm.

A motion for directed verdict is a challenge to the sufficiency of the evidence. *Marshall v. State*, ___ Ark. App. ___, ___ S.W.3d ___ (Jan. 18, 2006). When reviewing a challenge to the sufficiency of the evidence, the appellate court will affirm the conviction if there is substantial evidence to support it, when viewed in the light most favorable to the State. *Eaton v. State*, 85 Ark. App. 320, 151 S.W.3d 15 (2004). Substantial evidence,

whether direct or circumstantial, is evidence that is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or another without resort to speculation or conjecture. *Id.*

Arkansas Code Annotated section 5-14-10(a)(3)(A) (Rep. 2006) provides that “a person commits rape if he or she engages in sexual intercourse or deviate sexual activity with a person who is less than fourteen years of age.” Sexual intercourse is defined as the penetration, however slight, of the labia majora by a penis. Ark. Code Ann. §5-14-101 (10) (Repl. 2006). Deviate sexual activity is defined, in pertinent part as, “the penetration, however slight, of the anus or mouth of a person by the penis of another person.” Ark. Code Ann. § 5-14-101(1)(A) (Repl. 2006). It is well settled that the uncorroborated testimony of a rape victim is sufficient to support a conviction if the testimony satisfies the statutory elements of rape. *Williams v. State*, ___ Ark. ___, ___ S.W.3d ___ (Oct. 6, 2005); *Marshall v. State*, *supra*; *Cox v. State*, ___ Ark. App. ___, ___ S.W.3d ___ (Dec. 14, 2005).

Here, the victim, M.M. testified that she turned fourteen years old on August 5, 2005. She said that appellant was her best friend C.C.’s stepfather. On or about January 7, 2005, M.M. spent the night at C.C.’s. She said that while there, appellant and C.C.’s mother, Carla Huggins, provided the girls with alcohol.¹ M.M. testified that, after Ms. Huggins went to bed, C.C. took the trash out,² leaving her alone with appellant. She said that appellant kissed

¹Appellant and Huggins married sometime after January 7, 2005.

²C.C. also used this as an opportunity to smoke a cigarette.

her and asked her to perform oral sex on him. M.M. testified that she complied with appellant's request and, afterwards, they engaged in intercourse. She said that the whole thing only lasted ten minutes. M.M. testified that she later noticed a stain on the front of the shorts she was wearing. She said that she removed the shorts, hid them in a bag, and later took them home.

Detective Danielle Daily of the Jacksonville Police Department testified that as part of her investigation into the incident, she collected the shorts M.M. had been wearing. She said that she also collected DNA samples from M.M. and appellant. The shorts and the samples were later taken to the state crime lab.

Melissa Myhand testified that she works as a forensic biologist for the state crime lab. She said that testing revealed the presence of semen on the shorts. She explained that a semen extraction separated the semen into a sperm cell fraction and an epithelial fraction. She said that the epithelial fraction contained a mixture of both appellant's and M.M.'s DNA. Ms. Myhand testified that the DNA in the sperm cell fraction belonged solely to appellant.

During his case in chief, appellant put on evidence contradicting M.M.'s testimony. Appellant also took the stand and denied the allegations against him. However, the jury was not required to believe appellant's version of events because he is the person most interested in the outcome of the trial. *Turbyfill v. State*, ___ Ark. App. ___, ___ S.W.3d ___ (June 29, 2005).

Viewing the evidence in a light most favorable to the State, we hold that there was

sufficient evidence to support appellant's conviction. As stated above, the uncorroborated testimony of the rape victim is sufficient to support a conviction if the testimony satisfies the statutory elements of rape. M.M's testimony satisfied the statutory elements of rape in that it established that (1) she was less than fourteen years of age at the time, (2) appellant engaged in sexual intercourse with M.M., and (3) appellant also engaged in deviate sexual activity with M.M. Furthermore, there is also DNA evidence linking appellant to the offense. Accordingly, we hold that there was sufficient evidence to support appellant's conviction and affirm the trial court's denial of his motion for directed verdict.

Affirmed.

PITTMAN, C.J., and BIRD, J., agree.